(b) A Request for Expedited Processing may be made at the time of the initial FOIA Request or at a later time.

(c) A Requester seeking Expedited Processing must submit a detailed statement setting forth the basis for the Expedited Processing Request. The Requester must certify in the statement that the need for Expedited Processing is true and correct to the best of his/her knowledge. To qualify for Expedited Processing, a Requester relying upon the category in paragraph (a)(2) of this section must establish:

(1) He/she is a full time Representative of the News Media or primarily engaged in the occupation of information dissemination, though it need not be his/her sole occupation;

(2) A particular urgency to inform the public about the information sought by the FOIA Request beyond the public's right to know about the government activity generally; and

(3) The information is of the type that has value that will be lost if not disseminated quickly such as a breaking news story. Information of historical interest only or information sought for litigation or commercial activities will not qualify nor would a news media deadline unrelated to breaking news.

(d) Within 10 calendar days of receipt of a Request for expedited processing, the NCPC shall decide whether to grant or deny the Request and notify the Requester of the decision in writing. If a Request for Expedited Processing is granted, the Request shall be given priority and shall be processed in the expedited processing track. If a Request for Expedited Processing is denied, any appeal of that decision shall be acted on expeditiously.

§ 456.10 Consultations and referrals.

(a) Unless the NCPC determines that it is best able to process a Record in response to a FOIA Request, the NCPC shall either respond to the FOIA Request after consultation with the Agency best able to determine if the Requested Record(s) is/are subject to disclosure; or refer the responsibility for responding to the FOIA Request to the Agency responsible for originating the Record(s). Generally, the Agency originating a Record will be presumed by the NCPC to be the Agency best qualified to render a decision regarding disclosure or exemption except for Agency Records submitted to the NCPC pursuant to its authority to review Agency plans and/or projects.

(b) Upon referral of a FOIA Request to another Agency, the NCPC shall notify the Requester in writing of the referral, inform the Requester of the name of the Agency to which all or part of the FOIA Request has been referred, provide the Requester a description of the part of the Request referred, and advise the Requester of a point of contact within the receiving Agency.

(c) The timeframe for a response to a FOIA Request requiring consultation or referral shall be based on the date the FOIA Request was initially received by the NCPC and not any later date.

§ 456.11 Classified and controlled unclassified information.

(a) For Requests for an Agency Record that has been classified or may be appropriate for classification by another Agency pursuant to an Executive Order concerning the classification of Records, the NCPC shall refer the responsibility for responding to the FOIA Request to the Agency that either classified the Record, should consider classifying the Record, or has primary interest in the Record, as appropriate.

(b) Whenever a Request is made for a Record that is designated Controlled Unclassified Information by another Agency, the NCPC shall refer the FOIA Request to the Agency that designated the Record as Controlled Unclassified Information. Decisions to disclose or withhold information designated as Controlled Unclassified Information shall be made based on the applicability of the statutory exemptions contained in the FOIA, not on a Controlled Unclassified Information marking or designation.

§ 456.12 Confidential commercial information.

(a) Confidential Commercial Information obtained by the NCPC from a Submitter shall be disclosed under the FOIA only in accordance with the requirements of this section.